

108TH CONGRESS
1ST SESSION

H. R. 2766

IN THE SENATE OF THE UNITED STATES

NOVEMBER 5, 2003

Received; read twice and referred to the Committee on Energy and Natural
Resources

AN ACT

To direct the Secretary of Agriculture to exchange certain
lands in the Arapaho and Roosevelt National Forests
in the State of Colorado.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Arapaho and Roosevelt
3 National Forests Land Exchange Act of 2003”.

4 **SEC. 2. FINDINGS.**

5 The Congress finds the following:

6 (1) Certain National Forest System lands near
7 Empire, Colorado, are needed by the city of Golden,
8 Colorado, to facilitate the construction of a water
9 pipeline to transport domestic water supplies into
10 storage for the city and its residents.

11 (2) Such National Forest System lands, com-
12 prising approximately 9.84 acres in total, are of lim-
13 ited utility for public administration or recreation
14 and other use by virtue of their largely steep terrain,
15 irregular boundary, and lack of easy public access.

16 (3) The city of Golden owns, or has an option
17 to purchase, several parcels of non-Federal land
18 comprising a total of approximately 141 acres near
19 Evergreen and Argentine Pass, Colorado, which it is
20 willing to convey to the United States for addition
21 to the Arapaho and Roosevelt National Forests.

22 (4) The non-Federal lands owned or optioned
23 by the city of Golden, if conveyed to the United
24 States, will eliminate inholdings in the National For-
25 est System, result in administrative cost savings to
26 the United States by reducing costs of forest bound-

ary administration, and provide the United States with environmental and public recreational use benefits (including enhanced Federal land ownership along the Continental Divide National Scenic Trail) that greatly exceed the benefits of the Federal land the United States will convey in exchange.

(5) It is in the public interest to authorize, direct, expedite, and facilitate completion of a land exchange involving these Federal and non-Federal lands to assist the city of Golden in providing additional water to its residents and to acquire valuable non-Federal lands for permanent public use and enjoyment.

SEC. 3. LAND EXCHANGE, ARAPAHO AND ROOSEVELT NATIONAL FORESTS, COLORADO.

(a) CONVEYANCE BY THE CITY OF GOLDEN.—

(1) LANDS DESCRIBED.—The land exchange directed by this section shall proceed if, within 30 days after the date of the enactment of this Act, the city of Golden, Colorado (in the section referred to as the “City”), offers to convey title acceptable to the United States to the following non-Federal lands:

(A) Certain lands located near the community of Evergreen in Park County, Colorado,

1 comprising approximately 80 acres, as generally
2 depicted on a map entitled “Non-Federal
3 Lands—Cub Creek Parcel”, dated June, 2003.

4 (B) Certain lands located near Argentine
5 Pass in Clear Creek and Summit Counties, Col-
6 orado, comprising approximately 55.909 acres
7 in 14 patented mining claims, as generally de-
8 picted on a map entitled “Argentine Pass/Con-
9 tinental Divide Trail Lands”, dated September
10 2003.

11 (2) CONDITIONS OF CONVEYANCE.—The con-
12 veyance of lands under paragraph (1) to the United
13 States shall be subject to the absolute right of the
14 City to permanently enter upon, utilize, and occupy
15 so much of the surface and subsurface of the lands
16 as may be reasonably necessary to access, maintain,
17 repair, modify, make improvements in, or otherwise
18 utilize the Vidler Tunnel to the same extent that the
19 City would have had such right if the lands had not
20 been conveyed to the United States and remained in
21 City ownership. The exercise of such right shall not
22 require the City to secure any permit or other ad-
23 vance approval from the United States. Upon acqui-
24 sition by the United States, such lands are hereby
25 permanently withdrawn from all forms of entry and

1 appropriation under the public land laws, including
2 the mining and mineral leasing laws, and the Geo-
3 thermal Steam Act of 1970 (30 U.S.C. 1001 et seq.).

4 (b) CONVEYANCE BY UNITED STATES.—Upon re-
5 ceipt of acceptable title to the non-Federal lands identified
6 in subsection (a), the Secretary of Agriculture shall simul-
7 taneously convey to the City all right, title and interest
8 of the United States in and to certain Federal lands, com-
9 prising approximately 9.84 acres, as generally depicted on
10 a map entitled “Empire Federal Lands—Parcel 12”,
11 dated June 2003.

12 (c) EQUAL VALUE EXCHANGE.—

13 (1) APPRAISAL.—The values of the Federal
14 lands identified in subsection (b) and the non-Fed-
15 eral lands identified in subsection (a)(1)(A) shall be
16 determined by the Secretary through appraisals per-
17 formed in accordance with the Uniform Appraisal
18 Standards for Federal Land Acquisitions (December
19 20, 2000) and the Uniform Standards of Profes-
20 sional Appraisal Practice. Except as provided in
21 paragraph (3), the conveyance of the non-Federal
22 lands identified in subsection (a)(1)(B) shall be con-
23 sidered a donation for all purposes of law.

24 (2) SURPLUS OF NON-FEDERAL VALUE.—If the
25 final appraised value, as approved by the Secretary,

1 of the non-Federal lands identified in subsection
2 (a)(1)(A) exceeds the final appraised value, as ap-
3 proved by the Secretary, of the Federal land identi-
4 fied in subsection (b), the values may be equalized—

5 (A) by reducing the acreage of the non-
6 Federal lands identified in subsection (a) to be
7 conveyed, as determined appropriate and ac-
8 ceptable by the Secretary and the City;

9 (B) the making of a cash equalization pay-
10 ment to the City, including a cash equalization
11 payment in excess of the amount authorized by
12 section 206(b) of the Federal Land Policy and
13 Management Act of 1976 (43 U.S.C. 1716(b));
14 or

15 (C) a combination of acreage reduction
16 and cash equalization.

17 (3) SURPLUS OF FEDERAL VALUE.—If the final
18 appraised value, as approved by the Secretary, of the
19 Federal land identified in subsection (b) exceeds the
20 final appraised value, as approved by the Secretary,
21 of the non-Federal lands identified in subsection
22 (a)(1)(A), the Secretary shall prepare a statement of
23 value for the non-Federal lands identified in sub-
24 section (a)(1)(B) and utilize such value to the extent
25 necessary to equalize the values of the non-Federal

1 lands identified in subsection (a)(1)(A) and the Fed-
2 eral land identified in subsection (b). If the Sec-
3 retary declines to accept the non-Federal lands iden-
4 tified in subsection (a)(1)(B) for any reason, the
5 City shall make a cash equalization payment to the
6 Secretary as necessary to equalize the values of the
7 non-Federal lands identified in subsection (a)(1)(A)
8 and the Federal land identified in subsection (b).

9 (d) EXCHANGE COSTS.—To expedite the land ex-
10 change under this section and save administrative costs
11 to the United States, the City shall be required to pay
12 for—

13 (1) any necessary land surveys; and

14 (2) the costs of the appraisals, which shall be
15 performed in accordance with Forest Service policy
16 on approval of the appraiser and the issuance of ap-
17 praisal instructions.

18 (e) TIMING AND INTERIM AUTHORIZATION.—It is the
19 intent of Congress that the land exchange directed by this
20 Act should be completed no later than 120 days after the
21 date of the enactment of this Act. Pending completion of
22 the land exchange, the City is authorized, effective on the
23 date of the enactment of this Act, to construct a water
24 pipeline on or near the existing course of the Lindstrom
25 ditch through the Federal land identified in subsection (b)

1 without further action or authorization by the Secretary,
2 except that, prior to initiating any such construction, the
3 City shall execute and convey to the Secretary a legal doc-
4 ument that permanently holds the United States harmless
5 for any and all liability arising from the construction of
6 such water pipeline and indemnifies the United States
7 against all costs arising from the United States' ownership
8 of the Federal land, and any actions, operations or other
9 acts of the City or its licensees, employees, or agents in
10 constructing such water pipeline or engaging in other acts
11 on the Federal land prior to its transfer to the City. Such
12 encumbrance on the Federal land prior to conveyance shall
13 not be considered for purposes of the appraisal.

14 (f) ALTERNATIVE SALE AUTHORITY.—If the land ex-
15 change is not completed for any reason, the Secretary is
16 hereby authorized and directed to sell the Federal land
17 identified in subsection (b) to the City at its final ap-
18 praised value, as approved by the Secretary. Any money
19 received by the United States in such sale shall be consid-
20 ered money received and deposited pursuant to Public
21 Law 90–171 (16 U.S.C. 484(a); commonly known as the
22 “Sisk Act”, and may be used, without further appropria-
23 tion, for the acquisition of lands for addition to the Na-
24 tional Forest System in the State of Colorado.

1 (g) INCORPORATION, MANAGEMENT, AND STATUS OF
2 ACQUIRED LANDS.—Land acquired by the United States
3 under the land exchange shall become part of the Arapaho
4 and Roosevelt National Forests, and the exterior boundary
5 of such forest is hereby modified, without further action
6 by the Secretary, as necessary to incorporate the non-Fed-
7 eral lands identified in subsection (a) and an additional
8 40 acres as depicted on a map entitled “Arapaho and Roo-
9 sevelt National Forest Boundary Adjustment—Cub
10 Creek”, dated June 2003. Upon their acquisition, lands
11 or interests in land acquired under the authority of this
12 Act shall be administered in accordance with the laws,
13 rules and regulations generally applicable to the National
14 Forest System. For purposes of Section 7 of the of the
15 Land and Water Conservation Fund Act of 1965 (16
16 U.S.C. 460l–9), the boundaries of the Arapaho and Roo-
17 sevelt National Forests, as adjusted by this subsection
18 shall be deemed to be the boundaries of such forest as
19 of January 1, 1965.

20 (h) TECHNICAL CORRECTIONS.—The Secretary, with
21 the agreement of the City, may make technical corrections
22 or correct clerical errors in the maps referred to in this
23 section or adjust the boundaries of the Federal lands to
24 leave the United States with a manageable post-exchange
25 or sale boundary. In the event of any discrepancy between

1 a map, acreage estimate, or legal description, the map
2 shall prevail unless the Secretary and the City agree other-
3 wise.

4 (i) REVOCATION OF ORDERS AND WITHDRAWAL.—
5 Any public orders withdrawing any of the Federal lands
6 identified in subsection (b) from appropriation or disposal
7 under the public land laws are hereby revoked to the ex-
8 tent necessary to permit disposal of the Federal lands.
9 Upon the enactment of this Act, if not already withdrawn
10 or segregated from the entry and appropriation under the
11 public land laws, including the mining and mineral leasing
12 laws and the Geothermal Steam Act of 1970 (30 U.S.C.
13 1001 et seq.), the Federal lands are hereby withdrawn
14 until the date of their conveyance to the City.

Passed the House of Representatives November 4,
2003.

Attest:

JEFF TRANDAHL,

Clerk.